

# PUBLIC SUBMISSION

**As of:** November 03, 2010  
**Received:** November 02, 2010  
**Status:** Posted  
**Posted:** November 02, 2010  
**Tracking No.** 80b7d415  
**Comments Due:** November 08, 2010  
**Submission Type:** Web

**Docket:** EPA-R03-OW-2010-0736  
Draft Chesapeake Bay Total Maximum Daily Load

**Comment On:** EPA-R03-OW-2010-0736-0001  
Clean Water Act Section 303(d): Notice for the Public Review of the Draft Total Maximum Daily Load (TMDL) for the Chesapeake Bay

**Document:** EPA-R03-OW-2010-0736-0154  
Comment submitted by Gary L. Dyson, Planning and Code Administration, City of Gaithersburg, Maryland

---

## Submitter Information

**Submitter's Representative:** Gary L. Dyson  
**Organization:** Planning and Code Administration, City of Gaithersburg, Maryland  
**Government Agency Type:** Local  
**Government Agency:** Planning and Code Administration, City of Gaithersburg, Maryland

---

## General Comment

The City of Gaithersburg concurs with the recommendations given by the Metropolitan Washington Council of Governments (COG) regarding the EPA TMDL Draft & Draft Phase I Maryland & Virginia WIPs. We would also like to reiterate the need for adequate funding for the implementation of retrofits and new BMPs as well engineering, inspection, and monitoring costs. The City has no new source of funding for additional projects. In addition to COG's comments we would like to add the following regarding the processes in general and Gaithersburg specific concerns:

### General Process Issues

- Available resources should be used effectively to get the best level of improvement in water quality possible. This requires a cost-effectiveness analysis as part of the allocation of loads and selection of qualifying practices.
- Agriculture currently contributes the highest loads, and has made the least improvements to date, despite the availability of public funding. As a result, the lowest cost per pound reductions available are in this sector and the states should require agriculture to accept the appropriate responsibility for change. The proposed EPA backstop measures and state plans provide the wrong incentives for performance by this sector.
- TMDLs and allocations should not be finalized until the WSM model update process is complete so that the projected benefits will be accurate and local governments do not waste scarce resources doing analysis and making decisions twice.
- State and Federal governments must acknowledge the current fiscal crisis local governments are facing and provide appropriate support through new funding and authority to raise new revenues. The current deadlines require all plans to be approved before State legislatures even meet.
- The adoption of stormwater site plans which use many small facilities will significantly increase

expenses for inspection and maintenance. Funding needs to be provided to governments and private communities that will provide these services.

- To the extent the additional taxes or other revenue sources are authorized, local governments must receive and control those funds directly so they receive all the money and can make use of the money in the best way given their understanding of local conditions.
- Given the current economic climate, the imposition of financially unsupportable requirements will result in no improvements from redevelopment, bankrupt HOAs, additional cuts in local government services, promotion of green-field development over smart and/or transit oriented growth and a waste of taxpayer dollars if there is no cost benefit analysis.

#### Gaithersburg Specific Issues

- The majority of properties in Gaithersburg were developed prior to 1985. The City only owns 10% of the land in the City limits and has no legal authority to force changes on privately owned property. Many areas, both public and private have existing conditions such as steep slopes and/or shallow storm drains which will make retrofits very expensive. The City has numerous streets with no public right-of-way beyond the pavement. The proposed retrofit requirement of 20% by 2017 is not financially feasible, and presents significant technical problems as well.
- The City makes significant investment of resources in streetsweeping, a very effective means of improving water quality. How can we get credit for that in the WIP process?
- How will developed areas built before 1985 that drain into post-1985 facilities be classified? Will these be credited toward watershed specific TMDLs?
- Will there be a streamlined means to consider new BMPs to meet TMDL requirements?
- For older private on- site facilities that provide little if any water quality treatment, which party will be responsible for the retrofit? There may be legal issues that would prevent local governments from requiring a property to retrofit a facility that was approved at the time of development.
- Will there be a list provided of acceptable BMPs tailored to specific watershed TMDLs?
- Will credit toward specific TMDLs be given for ongoing environmental restoration efforts such as stream restoration and reforestation projects?